REMARKS

Amendments

Claims 1, 3 and 6-14 have currently been amended. Claims 4, 5 and 15-24 have been canceled. Claims 1-3 and 6-14 are currently pending in the present application.

Claim 1 has been amended to incorporate the features of claims 4 and 5, which have been canceled.

Claims 11 and 14 have been amended for the sake of improved clarity.

It is submitted that the above amendments do not constitute new matter, and their entry is requested.

Claim Objections

Claim 4 has been objected to as being unclear for including the expression "said mono- and disaccharides comprising the glycemic carbohydrate".

The objection against claim 4 has been obviated by the cancellation of that claim.

Withdrawal of this objection is requested in view of the cancellation of claim 4.

Claim Rejections Under 35 U.S.C. § 112

Claims 11 and 14 are rejected under 35 U.S.C. § 112, second paragraph, for allegedly being unclear with regard to the inclusion of the term "derived".

Claim 11 has been amended to clarify that the glycemic polysaccharide is provided by the recited whole oat flour, defatted oat flour, oat starch or a mixture thereof, and claim 14 has been amended to clarify that the glycemic polysaccharide is provided by the recited grain crop, thereby obviating the Examiner's rejection.

Withdrawal of this rejection is requested in view of the amendments made to claims 11 and 14.

Claim Rejections Under 35 U.S.C. § 102

Claims 1 and 2 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Astbury *et al.*

The rejection of claims 1 and 2 has been obviated by the amendment of claim 1 to incorporate the features of claims 4 and 5, which the Examiner has considered to be patentable in view of Astbury *et al.*

Withdrawal of this rejection under 35 U.S.C. § 102(b) is requested in view of the foregoing amendments to claim 1.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-7 and 10-14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmason *et al.* in view of Wursch *et al.* In addition, claims 8 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmason *et al.* in view of Wursch *et al.* and Fuisz. Applicants respectfully traverse the Examiner's rejections in view of the foregoing amendment to claim 1 and the comments set forth below.

Palmason *et al.* teaches that the **total** amount of available carbohydrate (i.e. **total** carbohydrate-dietary fibre) in the disclosed oral diagnostic test meal may be calibrated to achieve a selected glycemic response (see page 18, lines 21-32). Palmason *et al.* is **not**, however, concerned with the relative amounts of glycemic polysaccharide and mono- and disaccharides, and, in particular, the ratio of the amount of glycemic polysaccharide to the total amount of mono- and disaccharides, present in the disclosed oral diagnostic test meal. A skilled artisan would, therefore, not be motivated to modify the ratio of the amount of glycemic polysaccharide to the total amount of mono- and disaccharides present in the oral diagnostic test meal of Palmason *et al.* to arrive at the presently claimed invention.

Wursch *et al.* and Fuisz do not remedy the deficiencies of Palmason *et al.*

Withdrawal of the rejection under 35 U.S.C. § 103 is requested in view of the foregoing amendments and comments.

Conclusion

In view of the above amendments and remarks, Applicants believe that the present claims satisfy the provisions of the patent statutes and are patentable over the cited prior art. Reconsideration of the application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned to expedite the prosecution of the application.

Respectfully submitted,

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